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July 17, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
WRITER'S DIRECT DIAL NUMBER

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: TV Table of Allotments
Danville, Illinois
Pelican Broadcasting Company, Inc.

Dear Ms. Salas:

On behalf of Pelican Broadcasting Company, Inc., there is transmitted herewith and filed an original and four copies of its "Petition for Rulemaking" in the above-captioned matter.

Should any questions arise with regard to the enclosure, kindly communicate directly with the undersigned counsel.

Very truly yours,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: 

Bruce A. Eisen

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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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RECEIVED
JUL 17 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b)) MM Docket No. _____
TV Table of Allotments) RM No. _____
TV Broadcast Stations)
(Danville, Illinois))

To: Chief, Allocations Branch

PETITION FOR RULEMAKING

Pelican Broadcasting Company, Inc. ("Pelican"), by counsel, and pursuant to Section 1.401 of the Commission's rules and *Public Notice*, DA 99-2605 (released November 22, 1999) ("Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations") ("*Window Filing Notice*"),¹ hereby requests that the Commission institute a rulemaking proceeding for the purpose of amending the TV Table of Allotments to substitute Channel 57 for the existing Channel 68 allotment at Danville, Illinois. Accordingly, Pelican proposes to amend Section 73.606(b) of the Commission's rules as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Danville, Illinois	68	57

In support of this request, Pelican states the following:

¹ On March 9, 2000, the Commission extended the window filing period until July 15, 2000. See *Public Notice*, 15 FCC Rcd 4974 (2000) ("Window Filing Opportunity For Certain Pending Applications and Allotment Petitions For New Analog TV Stations Extended to July 15, 2000").

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Pelican currently has an application pending for a new NTSC television station to operate on Channel 68 at Danville, Illinois (File No. BPCT-960723LB). However, in the *Report and Order* in ET Docket No. 97-157, *Reallocation of Television Channels 60-69, the 746-806 MHz Band*, 12 FCC Rcd 22953 (1998) (“*Reallocation Order*”), the FCC reallocated channels 60-69 for public safety and other services, and announced that it would not authorize new television broadcast stations on those channels. *Id.* at 22971 ¶40. The Commission recognized, however, that those persons with pending applications and/or allotment rulemaking petitions for new full-service NTSC stations on channels 60-69 have already substantial invested time, money and effort in their respective applications and petitions. *Id.* See also *Window Filing Notice* at 3. The Commission therefore stated that it would not summarily dismiss these pending applications and allotment rulemaking petitions, but, rather, would provide these applicants and petitioners with an opportunity to amend their pending proposals to seek a channel below Channel 60. *Id.* Accordingly, pursuant to the *Window Filing Notice*, Pelican seeks to amend the TV Table of Allotments by substituting Channel 57 for the existing Channel 68 allotment at Danville, Illinois.

As demonstrated in Mr. Warren’s attached engineering statement, from the allotment reference point,² the proposed allotment of Channel 57 at Danville complies with the minimum distance separation requirements with respect to all NTSC stations. See Engineering Statement, p. 1 and Exhibit RM-1. Moreover, although the proposed allotment is short-spaced to a Channel 50 DTV allotment at Charleston, Illinois, and a co-channel DTV allotment at Peoria, Illinois, the

² The reference coordinates of the proposed allotment are North Latitude: 40° 03' 18"; West Longitude: 87° 54' 44". The owner of the proposed transmitter site has provided reasonable assurance that the site will be available in the event this petition is granted and Channel 57 is allotted to Danville.

proposed Channel 57 NTSC station at Danville would cause less than 0.5% interference to each of these DTV facilities, which complies with the Commission's rules. *See Id.* at 2 and Exhibits RM-2, FLR-1, and FLR-2. The proposed allotment would enable a new full-service television station to commence operation from the proposed transmitter site with one megawatt omni-directional effective radiated power at an antenna height of 404 meters above average terrain without adversely affecting any other television station. *Id.* at 1. The proposed Channel 57 NTSC facility would provide a new television broadcast service to 775,189 people in the Danville area, and would provide an 80 dBu contour over the entire community of Danville. *Id.*

Because the existing Channel 68 allotment is the only television channel which has been assigned to Danville, a grant of Pelican's allotment proposal would preserve the opportunity to bring a first local television service to the Danville community. As a result, the proposed allotment of Channel 57 to Danville would promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of television broadcast stations among the various states and communities. 47 U.S.C. §307(b). *See National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing goal of Communications Act to "secure the maximum benefits of radio to all the people of the United States"); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to "secure local means of expression"). In addition, the proposed allotment would promote the second television allotment priority established in the *Sixth Report and Order* in Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing each community with at least one television broadcast station.

Furthermore, as the Commission expressly recognized in the *Reallocation Order*, the proposed allotment would foster the development of new networks such as The WB Television

Network, the United Paramount Network, and the Paxson Network by providing an additional broadcast outlet in a top 100 television market³ with which to establish a primary affiliation.⁴ Thus, the proposed new NTSC station would bring a new network service to the residents of Danville and the surrounding area. The proposed new station also would provide an opportunity for new entry into the television broadcast industry, enhance viewpoint diversity in the Champaign & Springfield-Decatur television market, and increase competition in the local advertising market.⁵

In light of the above, Pelican requests that the Commission amend the TV Table of Allotments to substitute Channel 57 for the existing Channel 68 allotment at Danville, Illinois, which would preserve the community's first local television service. In the event Channel 57 is allotted to Danville, Pelican will amend its pending application in accordance with the Report and Order issued in this proceeding to specify the new channel, and modify its technical proposal as necessary so that the proposed Channel 57 NTSC facility will not cause harmful interference to any other television station. In the event its application is granted, Pelican will promptly construct and operate the new NTSC facility.

³ The Champaign & Springfield-Decatur market currently is the 83rd television market. *See Broadcasting & Cable*, p. 246 (2000).

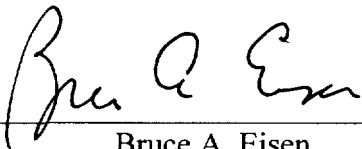
⁴ *See Reallocation Order*, 12 FCC Rcd at 22971, ¶40.

⁵ *See Id.*; *see also Petition for Rule Making to Amend Television Table of Assignments to Add New VHF Stations in the Top 100 Markets and to Assure that the New Stations Maximize Diversity of Ownership, Control and Programming*, BC Docket No. 20418, *Report and Order*, 81 FCC 2d 233, 253 (1980), *recon. denied*, 90 FCC 2d 160 (1982), *aff'd sub nom. Springfield Television of Utah, Inc. v. FCC*, 710 F.2d 620 (10th Cir. 1983).

WHEREFORE, in light of the foregoing, Pelican Broadcasting Company, Inc. respectfully requests that the Commission GRANT this petition for rulemaking and AMEND the TV Table of Allotments by substituting Channel 57 for the existing Channel 68 allotment at Danville, Illinois, which would preserve the community's first local television service.

Respectfully submitted,

PELICAN BROADCASTING
COMPANY, INC.

By: 
Bruce A. Eisen

Its Counsel

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& Handler, L.L.P.
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July 17, 2000

WES, INC.
6200 Valeria Ln.
El Paso, TX 79912

505-589-2224

**ENGINEERING EXHIBIT
PETITION TO MODIFY THE TABLE OF
ALLOTMENTS TO SPECIFY A
DISPLACEMENT CHANNEL TO
SUBSTITUTE FOR DANVILLE, IL
CHANNEL 68**

June 23, 2000

ENGINEERING STATEMENT

Wes, Inc.

DECLARATION

I, Pete E Myrl Warren, III, declare and state that I am a Certified Broadcast Engineer, by the National Association of Radio and Television Engineers, and my qualifications are a matter of record with the Federal Communications Commission, and that I am an engineer in the firm of Wes, Inc., and that the firm has been retained to prepare an engineering statement on behalf of Pelican Broadcasting Company, Inc.

All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.



Pete E Myrl Warren, III

Executed on the 23rd day of June, 2000

Narrative Statement

I. GENERAL

This engineering report has been prepared on behalf of Pelican Broadcasting Company, Inc. in support of its request for a displacement channel (Channel 57) for its pending application for Channel 68 in Danville, Illinois.

II. ENGINEERING DISCUSSION

The applicant originally applied for a construction permit for channel 68 in Danville, IL. The applicant is precluded from going on channel 68 due to the FCC mandated elimination of television channels 60 through 69.

The applicant proposes the same site as its original application for C.P.

North Latitude: 40° 03' 18"

West Longitude: 87° 54' 44"

It is proposed to amend Section 73.606(b) of the Commission's rules, NTSC Table of Allotments, to allot Channel 57 (728-734 MHz) for the NTSC television operation of Pelican Broadcasting Company, Inc. As demonstrated below, the proposed Channel 57 NTSC operation at Danville, Illinois, will not cause any harmful interference to any other analog NTSC or DTV station or allotments exceeding the Commission's guidelines. Danville, IL Channel 57 would provide additional service to a population of 775,189 people,

The proposed NTSC Channel 57 has site availability and can operate from the proposed antenna site at 1000 kW omnidirectional and 404 meters HAAT without adversely impacting any other TV operations. The proposed Channel 57 would serve all of Danville, Illinois within its 80 dBu contour.

Analog NTSC TV Allocation Situation

The attached Exhibit RM-1 demonstrates that Channel 57, Danville, Illinois, **is free of any short-spacings to any other NTSC stations.**

Class A Situation

There are no Class A LPTV stations that need to be protected.

DTV Allocation Situation

There are two digital stations that required further study to determine whether or not they would cause or receive interference from the proposed channel 57 in Danville, Illinois, as outlined in exhibit RM-2. The applicant will not cause any interference to Charleston DTV 50 because it is 7 channels below the applicant and the applicant will receive little or no interference from Charleston. The attached exhibit FLR-1 demonstrates that Peoria, Illinois channel 57 will receive 1,809 (0.31%) people of interference from Danville, Illinois Channel 57. The interference accepted by Peoria, Illinois is less than 0.5% and is therefore considered negligible and acceptable.

III. Summary

The applicant must change channel from Channel 68 in Danville, Illinois, to channel 57, because of the FCC mandated elimination of television channels 60 through 69. On channel 57, Danville is clear of all short-spacing to NTSC stations and will not cause any interference to any digital or NTSC station.

Exhibit RM-1
Danville, IL
June 23, 2000
by WES, Inc. Broadcast Consultants

NTSC Spacing Study on newly proposed channel 57 for Danville, IL

***** TV CHANNEL SPACING STUDY *****

Job title: Danville

Channel: 57

Database file name: tv000117.edx

Latitude: 40 3 18

Longitude: 87 54 44

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
42+	WCLJ	4460	BLOOMINGTON	IN	1	L	115.1	167.7	119.9	47.8
43o	WYZZTV	5178	BLOOMINGTON	IL	1	L	301.9	126.1	95.7	30.4
43o	WYZZTV	5179	BLOOMINGTON	IL	1	C	301.9	126.1	95.7	30.4

***** End of channel 57 study *****

Exhibit RM-2
Danville, IL
June 23, 2000
by WES, Inc. Broadcast Consultants

Spacing Study to Digital Television on newly proposed Channel 57

Study Location:
Danville, IL Channel 57

NTSC Study Station, Transmitter Coordinates: 40-3-18 N 87-54-44 W

Study distance: 429 km

NTSC TO DTV STUDY RESULTS

City of License	ST	Chan	Bearing	Distance	Req. Dist	Diff.
Charleston	IL	50	199.21	67.77	80.50	-12.73
Peoria	IL	57	294.68	152.91	217.30	-64.39
Springfield	IL	53	257.92	140.11	80.50	59.61
Bloomington	IN	56	115.55	167.73	88.50	79.23
Elkhart	IN	58	39.90	225.96	88.50	137.46
Onondaga	MI	57	46.55	385.58	217.30	168.28
Cape Girardeau	MO	57	205.40	322.64	217.30	105.34

Station is short-spaced to 2 stations.

**Exhibit FLR-1
Danville, IL
June 23, 2000**

**Fortran Longley-Rice Interference Study
by WES, Inc. Broadcast Consultants**

Study not including Danville, IL Channel 57:

Run begins Fri Jun 23 19:17:00 2000, host providence

Analysis of: 57A IL PEORIA

HAAT 216.0 m, ATV ERP 120.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	567892	14748.5
not affected by terrain losses	567861	14724.6
lost to NTSC IX	48	32.0
lost to additional IX by ATV	51	28.0
lost to ATV IX only	51	28.0
lost to all IX	99	59.9

Finished Fri Jun 23 19:20:12; run time 0:02:52

8935 calls to Longley-Rice; path distance increment 1.00 km

Study with Danville, IL Channel 57 added at 1MW:

Run begins Fri Jun 23 19:24:40 2000, host providence

Analysis of: 57A IL PEORIA

HAAT 216.0 m, ATV ERP 120.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	567892	14748.5
not affected by terrain losses	567861	14724.6
lost to NTSC IX	1857	243.7
lost to additional IX by ATV	51	28.0
lost to ATV IX only	51	28.0
lost to all IX	1908	271.7

Finished Fri Jun 23 19:28:33; run time 0:03:40

12511 calls to Longley-Rice; path distance increment 1.00 km

CERTIFICATE OF SERVICE

I, Toni Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler,
L.L.P., hereby certify that on this 17th day of July, 2000, copies of the foregoing
"Petition for Rulemaking" were hand delivered to the following:

Mr. Roy J. Stewart
Chief, Mass Media Bureau
Federal Communications Commission
The Portals II, Room 2-C347
445 Twelfth Street, S.W.
Washington, D.C. 20554

Mr. Keith Larson
Assistant Chief, Engineering
Mass Media Bureau
Federal Communications Commission
The Portals II, Room 2-C420
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Washington, D.C. 20554

